

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

SUPPLEMENTARY BRIEF FOR PETITIONERS.

IN THE
United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT.

No. 15,801.

No. 15,838.

AMERICAN & AUSTRALIAN STEAMSHIP LINE, et al.,
Petitioners,

v.

FEDERAL MARITIME BOARD and UNITED STATES OF
AMERICA,

Respondents.

No. 15,807.

COMPANIA ESPANOLA DE NAVEGACION MARITIMA, S. A.,
et al.,

Petitioners,

v.

FEDERAL MARITIME BOARD and UNITED STATES OF
AMERICA,

Respondents.

CONSOLIDATED PETITIONS TO REVIEW ORDERS OF THE FEDERAL
MARITIME BOARD.

On the Question of Whether Certain Petitioners Were Subject to
the Jurisdiction of the Federal Maritime Board at the Time of the
Issuance of the Board's Order of April 11, 1960 so that Effective Service
Could be Made Upon Them.

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15,801 and 15,838.

QUESTION PRESENTED.

WERE CERTAIN PETITIONERS SUBJECT TO THE JURISDICTION OF THE FEDERAL MARITIME BOARD AT THE TIME OF THE ISSUANCE OF THE BOARD'S ORDER OF APRIL 11, 1960, SO THAT EFFECTIVE SERVICE COULD BE MADE UPON THEM?

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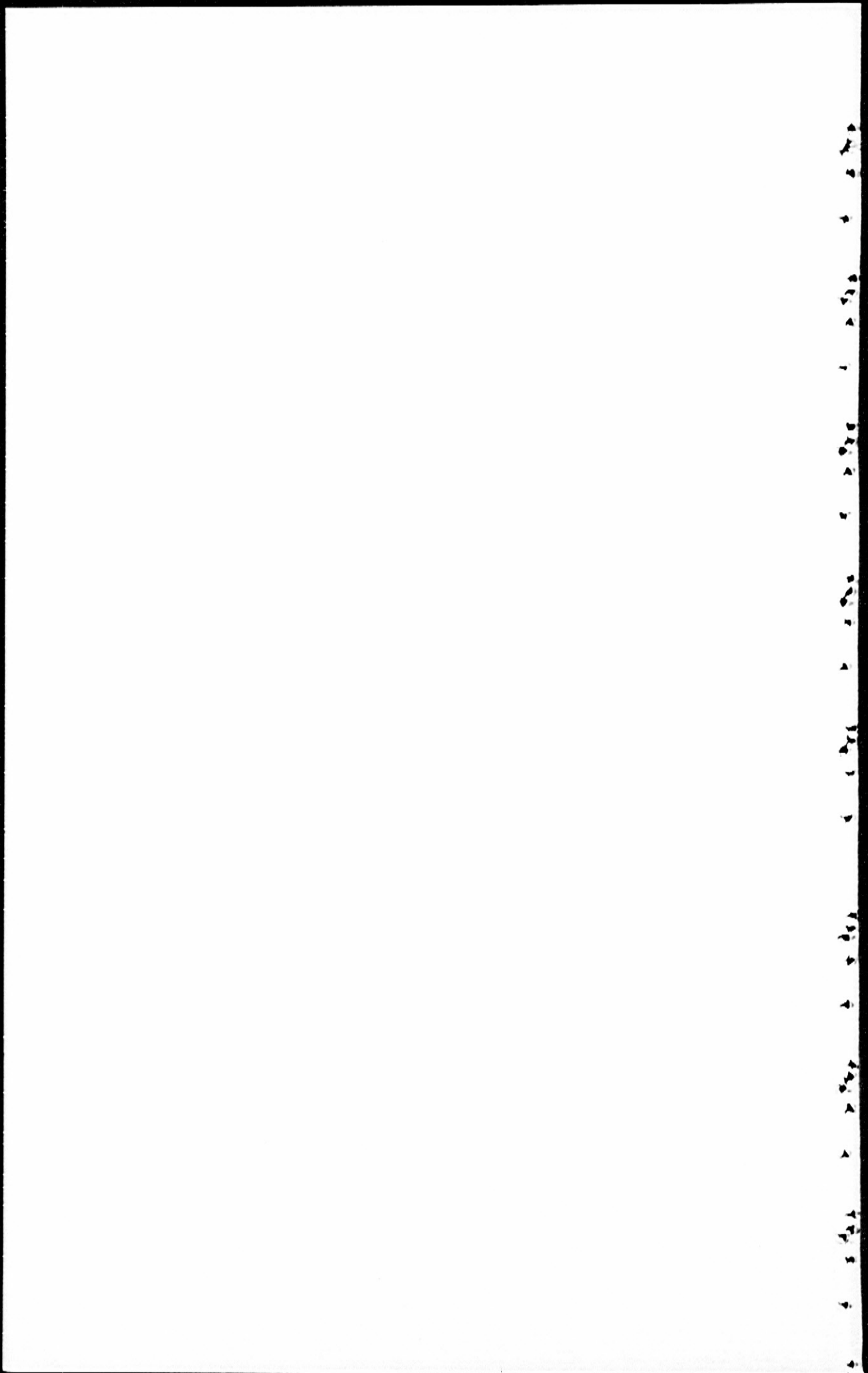
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United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT.

No. 15,801.

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AMERICAN & AUSTRALIAN STEAMSHIP LINE, *et al.*,
Petitioners,

v.

FEDERAL MARITIME BOARD and UNITED STATES OF AMERICA,
Respondents.

No. 15,807.

COMPANIA ESPANOLA DE NAVEGACION MARITIMA, S. A. *et al.*,
Petitioners,

v.

FEDERAL MARITIME BOARD and UNITED STATES OF AMERICA,
Respondents.

PETITIONS TO REVIEW ORDERS OF THE FEDERAL
MARITIME BOARD.

SUPPLEMENTARY BRIEF ON BEHALF OF
PRINCE LINE, LTD., PETITIONER IN NOS. 15,801
AND 15,838, AND COMPANIA ESPANOLA DE NAVE-
GACION MARITIMA, S. A., PETITIONER IN NO.
15,807, IN RELATION TO THE QUESTION OF JURIS-
DICTION OF THE FEDERAL MARITIME BOARD
AND OF EFFECTIVE SERVICE.

This brief is filed in accordance with the order of this
Court of October 11, 1960 and is supplemental to that filed
in No. 15,783, *et al.*, *Montship Lines Limited, et al.*, *Peti-*

tioners v. Federal Maritime Board and United States of America, Respondents.

ARGUMENT.

Petitioner Prince Line, Ltd. is a foreign corporation incorporated under the laws of the United Kingdom.

Petitioner Compania Espanola de Navegacion Maritima, S. A. is a foreign corporation incorporated under the laws of the Republic of Spain.

The Board's order of April 11, 1960 was served on Furness, Withy & Co., Ltd. as agent for Prince Line, Ltd. and on Garcia & Diaz Inc. as agent for Compania Espanola de Navegacion Maritima, S. A.

The Board's order of April 11, 1960 was addressed to "every common carrier by water subject to" the Shipping Act, 1916, 39 Stat. 728-738, U. S. C. A., Title 46 Secs. 801-842. Section 1 of that Act defines "common carrier by water in foreign commerce" as:

"a common carrier . . . engaged in the transportation by water of passengers or property between the United States or any of its Districts, Territories, or possessions and a foreign country whether in the import or export trade. . ."

On April 11, 1960, neither Petitioner was a common carrier by water subject to the Act as that term is defined, *supra*. Prince Line, Ltd. terminated its United States service on February 4, 1960. Compania Espanola de Navegacion Maritima, S. A., terminated its United States service in November, 1959, when the *SS. Motormar* was laid up in Barcelona, Spain.

Inasmuch as neither Petitioner was engaged in the transportation by water of passengers or property between the United States and a foreign country at the time of the issuance of the Board's order and therefore was not subject to the Act, the Board, although serving its order on Petitioner's agents, did not have jurisdiction with respect to Petitioners and such service, therefore, was ineffective. As the Board itself has stated:

"... this agency's jurisdiction is as set out in statute, and we cannot, by our own act or omission, enlarge or divest ourselves of that statutory jurisdiction." *American Union Transport, Inc. v. River Plate & Brazil Conferences, et al.*, Federal Maritime Board Docket No. 758; 5 F.M.B. 216, 224 (1957).

CONCLUSION.

The Order of April 11, 1960 of the Federal Maritime Board is invalid as to Petitioners and should be set aside.

Respectfully submitted,

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CERTIFICATE OF SERVICE.

I, RONALD A. CAPONE, attorney for Petitioner, Prince Line, Ltd., and admitted to practice before this Court, hereby certify that I have this 7th day of January, 1961, personally served, by hand, a copy of the foregoing supplementary brief in printed form upon the following:

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